IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16368 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MINABEN AMARSING WAGELA W/O. AMARSING N WAGELA

Versus

MUNICIPAL COMMISSIONER

Appearance:

1. Special Civil Application No. 16368 of 2003

MR BG PATANI for Petitioner No. 1

MR MG NAGARKAR for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 13/07/2004

ORAL JUDGEMENT

Rule. Mr.M.G.Nagarkar appears for the respondent and waives service of notice.

2. In the present petition, the only prayer made by the petitioner is for direction to decide the representation of the husband of the petitioner in accordance with law and also for compassionate appointment to the heirs of the deceased. It is the case of the petitioner that the petitioner's husband was working as Safai Kamdar with the respondent Municipal Corporation. The husband of the petitioner expired on 5.6.98, however it is the case of the petitioner that her husband had made an application on 2.2.98 for being regularised as per the policy of the respondent Corporation. The said application is produced at Annexure A to the petition. In so far as the case of the petitioner for compassionate appointment is concerned, the respondent has filed affidavit stating that she is working with the Corporation as Class IV employee on permanent basis. In that view of the matter, the question of compassionate appointment to the heirs of the deceased does not survive. With respect to the prayer for deciding the application dated 2.2.98 filed by the husband is concerned, I am of the view that the same is required to be considered. The respondent ought to have decided the said application in accordance with law and communicated the decision thereon. I find no difficulty in accepting the prayer of the petitioner to the limited extent that the said request of the husband of the petitioner is required to be considered. The present petition is disposed of with a direction to the respondent to consider and decide the representation dated 2.2.98 filed by the husband of the petitioner and dispose of the same within a period of eight weeks from the date of receipt of the copy of this order and communicate the decision taken thereon to the petitioner as soon as possible thereafter.

3. In view of the above directions, the petition stands disposed of. Rule is made absolute the above extent with no order as to costs.

(Akil Kureshi, J.)
(vjn)